

Appln. No.: 09/994,088
Amendment dated January 13, 2006
Reply to Office Action mailed October 13, 2005

REMARKS/ARGUMENTS

The Office Action of October 13, 2005 has been carefully reviewed and this paper is Applicant's response thereto.

Claims 1-3, 5-9, 11-23, 25-39, 41-44, 46-47, 52 and 54-59 are pending. Claims 4, 10, 24, 40, 45, 48-51 and 53 have been cancelled. Claims 1, 5-9, 11, 13, 18-23, 29, 35-39, and 43 were deemed allowable. Claims 2-4, 12, 14-17, 25-28, 30-34, 41-42, 44-49, and 51-59 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 3,824,653 to Sholler ("Sholler").

As an initial matter, Applicant would like to express appreciation of the indication of allowability of claims 1, 5-9, 11, 13, 18-23, 29, 35-39, and 43. Applicant believes additional subject matter is allowable and respectfully requests reconsideration in light of the following remarks.

Cancelled Claims

Claims 4, 45, 48, 49, 51 and 53 are cancelled by this response. Accordingly, the rejection of these claims is considered moot. The cancellation of these claims is without prejudice to the refiling of similar claims in a continuation application.

Amendment to the Claims

Claim 2 has been amended to depend from claim 1. As claim 1 was deemed allowable, Applicant submits that claim 2 is also allowable for at least the reasons supporting the allowability of claim 1 and for the additional limitations recited therein. In addition, claim 3, which depends from claim 2, is also believed to be in condition for allowance for at least the reasons supporting the allowability of claim 2 and for the additional features recited therein.

Rejection Under 35 U.S.C § 102(b) - Sholler

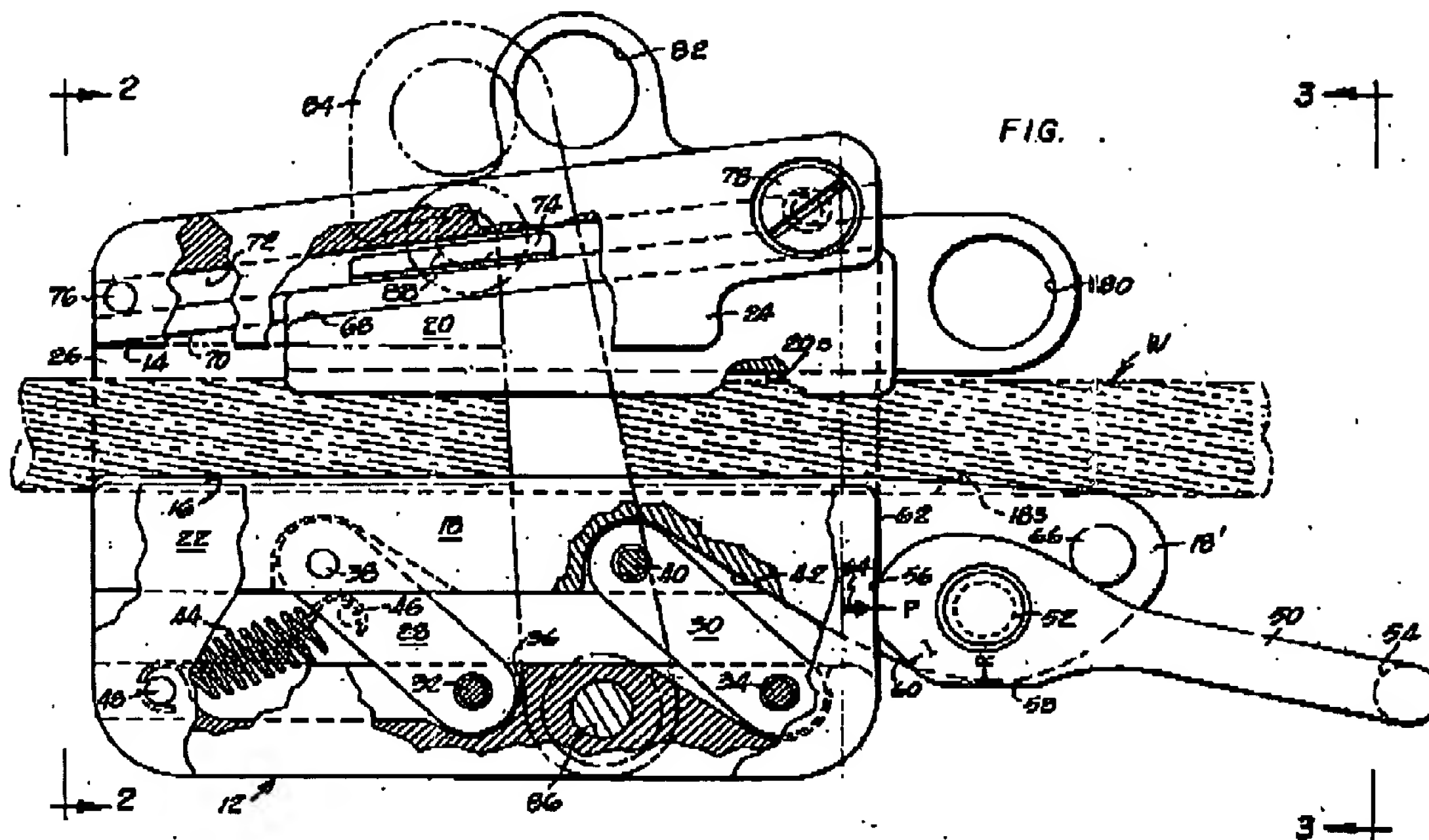
Claims 2-4, 12, 14-17, 25-28, 30-34, 41-42, 44-49, and 51-59 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sholler. As noted above, this rejection is obviated with respect to claims 2-4, 49, 51 and 53.

Before addressing the pending claims, Figure 1 of Sholler is provided below:

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Sholler explains that in operation, the bail 50 is rotated and jaw member 18, constrained by the pivot arms 28, 30 is moved toward the wire W so as to firmly grip the wire W. (Sholler, C. 4, L. 9-34).

The Office Action equates the jaw member 18 with the saddle member recited in the pending claims and Applicant agrees that this is a reasonable interpretation. However, the Office Action also equates the pivot arms 28, 30 with the platen and Applicant respectfully submits this is not supported.

As used in the pending claim, the term platen refers to an element of the clamp that cooperates with a lever. For example, as depicted in Figure 8, rotation of the lever 860 causes the lever 860 to cooperate with the platen 830 so as to cause the platen 830 to move in a direction that would press against the elongated member. As can be appreciated from the above Figure 1 of Sholler, the bail 50 does not cooperate with the pivot arms 28, 30 but instead cooperates with the end face 62 of the housing 12. (Sholler, C. 3, L. 30-35). In addition, in certain embodiments,

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the platen may include an engaging surface for pressing against an elongated member and as can be readily appreciated from Figure 1, while the jaw member 18 could be configured to have an engaging surface, the pivot arms 28, 30 cannot be so configured. Therefore, Applicant respectfully submits that the pivot arms 28, 30 of Sholler cannot be fairly equated with the platen as recited in the pending claims.

Turning to the pending claims, claims 14-17, 25-28, 30-34, 41-42, 44, 46-47, 52 and 55 all recite the feature of a platen and as noted above, this feature as recited in these claims is missing from Sholler. Therefore, as Sholler fails to disclose at least one feature of claims 14-17, 25-28, 30-34, 41-42, 44, 46-47, 52 and 55, Sholler cannot be said to anticipate claims 14-17, 25-28, 30-34, 41-42, 44, 46-47, 52 and 55.

Claims 12, 27-28 and 44 all recite embodiments of a slot. The Office Action has not pointed to any portion of Sholler as disclosing a slot, nor is the Applicant aware of any such disclosure in Sholler, thus Sholler fails to disclose at least one feature of claims 12, 27-28 and 44 and therefore these claims are not anticipated by Sholler for at least this reason.

Claims 54-55 recite a method that includes the step of "using the cable tensioner to apply tension to the elongate member." The Office Actions has not pointed to any section of Sholler as disclosing a cable tensioner, nor is Applicant aware of any such section. Thus, Applicant respectfully submits that as Sholler fails to disclose a cable tensioner, Sholler necessarily fails to disclose a use of the cable tensioner. Therefore, as Sholler fails to disclose at least one feature of claims 54-55, Sholler cannot be said to anticipate claims 54-55.

Claims 56-58 recite a tensioning tool. The Office Action has not pointed to any section of Sholler as disclosing a tensioning tool, nor is the Applicant aware of any such disclosure in Sholler. Therefore, as Sholler fails to disclose at least one feature of claims 56-58, Sholler cannot be said to anticipate claims 56-58.

Therefore, for at least the above reasons, claims 14-17, 25-28, 30-34, 41-42, 44-48, 52 and 54-59 all recite at least one limitation not disclosed by Sholler. As Sholler does not disclose all the features of claims 14-17, 25-28, 30-34, 41-42, 44-48, 52 and 54-59, Sholler cannot be said to anticipate claims 14-17, 25-28, 30-34, 41-42, 44-48, 52 and 54-59.

Accordingly, withdrawal of this ground of rejection is respectfully requested.


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All rejections and objections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same.

Respectfully submitted,
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